

CWP-1821-2021

Date of decision : February 17, 2021

NEELAM DEVI

.....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ashok Kumar Khubbar, Advocate for the petitioner.

Mr. Ashish Yadav, Additional AG, Haryana.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Present writ petition has been filed seeking setting aside of order dated 02.12.2020 passed by respondent No. 2 – Deputy Commissioner, Kurukshetra whereby the petitioner, who was elected as Sarpanch of Gram Panchayat, Dhanani in 2016, has been suspended from the said post. Petitioner also impugns order dated 17.12.2020 passed by the learned Principal Secretary to Government of Haryana, Development and Panchayat Department dismissing her appeal challenging order dated 02.12.2020. Allegation against the petitioner is that she did not take proper care of one case regarding the panchayat land comprised in khewat No. 62 and that she had been negligent towards protection of the shamlat land of the panchayat, therefore, she was found liable to be proceeded against under Section 51 of the Panchayati Raj Act, 1994.

In this view of the matter, the petitioner was suspended from the post of Sarpanch on 02.12.2020 and regular inquiry was initiated. Appeal against order dated 02.12.2020 was dismissed by the Principal Secretary to Government of

Haryana, Development and Panchayat Department vide order dated 17.12.2020 while upholding the observations of the learned Collector. Case against the petitioner is that the matter titled 'Gram Panchayat Village Dhanani versus Ram Swaroop and others' was pending before the learned Collector, Kurukshetra regarding shamlat land of the Gram Panchayat since the year 2005. However, the case was dismissed in default on 10.09.2019 as the Gram Panchayat did not take proper care of the matter. Moreover, no steps were taken for restoration of the matter.

Learned counsel for the petitioner argues that the petitioner was appointed as a Sarpanch in the year 2016 and when charge of the post was handed over alongwith the relevant record, record regarding the matter pending before the learned Collector, Kurukshetra was not handed over to her. Moreover, the petitioner, it is submitted, cannot be held responsible for default in a matter, which was pending since 2005. The minute notice was issued to the petitioner, an application for restoration of the matter was immediately moved. The matter came to light only after some inhabitants of the village filed CWP-12487-2020, which was decided vide order dated 28.01.2021 (Annexure P10). It is submitted that sequence of events reveals that the petitioner is being made a scape-goat in this whole matter by the authorities to save their skin before this High Court. Learned counsel further submits that the petitioner sought zimni orders right from the year 2005 to 2019 in the matter 'Gram Panchayat Village Dhanani versus Ram Swaroop and others' before the learned Collector, which was dismissed in default on 10.09.2019. Petitioner is stated to have sought the same in order to present her defence effectively, especially to show whether the earlier incumbents on the post of Sarpanch had exercised due diligence or not. However, the said orders are not being made available to her.

Learned counsel for the State to whom advance copy of the petitioner has been supplied informs that regular inquiry initiated against the petitioner is almost at its penultimate stage and shall be concluded within the next two weeks. It is further submitted that zimni orders, as sought by the petitioner in the case which was dismissed in default, shall be provided as demanded.

Having heard learned counsel for the parties, I do not find any ground to set aside impugned orders dated 02.12.2020 and 17.12.2020 passed by respondent No. 2 – Deputy Commissioner, Kurukshetra, and learned Principal Secretary to Government of Haryana, Development and Panchayat Department, respectively at this stage. However, this petition is disposed of with a direction to the learned Collector to conclude the proceedings against the petitioner and finally decide the same within three weeks. Needless to say, the documents as sought by the petitioner would be provided to her to enable her to present a defence in a proper manner.

February 17, 2021
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No